



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

Christina Waggett  
Assistant Commissioner  
for Consumer Protection

Douglas Meckes, DVM  
State Veterinarian

July 9, 2021

Tonya Adams  
Interim President  
Lenoir County SPCA  
300 Briary Run Road  
Kinston, North Carolina 28504  
**Via Hand-Delivery**

**NOTICE of CIVIL PENALTY**

**Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE ("NCAC") CHAPTER 52J SECTION .0210(c).**

**AWS-CP-2021-8**

**Facility:** Lenoir County SPCA Animal Shelter  
Registration Number - 73

Dear Ms. Adams:

Pursuant to NCGS § 19A-40, I am issuing this notice that you, as owner of the Lenoir County SPCA Animal Shelter, are hereby assessed a civil penalty of \$1,00.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

### **PAYMENT**

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services  
Dr. Patricia Norris  
Director, Animal Welfare Section  
1030 Mail Service Center  
Raleigh, NC 27699-1030

### **APPEAL**

If you file a contested case petition, it must be in writing and in the form prescribed by NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.

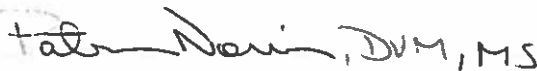
You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse  
North Carolina Department of Agriculture and Consumer Services  
Registered Agent and General Counsel  
1001 Mail Service Center  
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS  
Director, Animal Welfare Section

**Attachment: Notice of Violations, Assessment of Civil Penalty**

**cc: R. Douglas Meckes, DVM, State Veterinarian  
Tina Hlabse, General Counsel, NCDA&CS  
Christina Waggett, Assistant Commissioner, NCDA&CS  
Christopher R. McLennan, Assistant Attorney General**

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT  
OF AGRICULTURE AND CONSUMER  
SERVICES, VETERINARY DIVISION  
ANIMAL WELFARE SECTION

IN THE MATTER OF

LENOIR COUNTY SPCA  
OPERATOR OF

LENOIR COUNTY SPCA  
ANIMAL SHELTER

) NOTICE OF VIOLATION and  
) ASSESSMENT of CIVIL PENALTY  
) for VIOLATION of TITLE 02 N.C  
) ADMINISTRATIVE CODE ("NCAC")  
) CHAPTER 52J SECTION .0210(c)  
)  
)

Acting pursuant to NCGS § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

**FINDINGS OF FACT**

1. At all times pertinent to this matter, Lenoir County SPCA was the operator of the Lenoir County Animal Shelter located at 2455 Rouse Road Extension, Kinston, NC ("the shelter"), an animal shelter, registered pursuant to N.C.G.S. § 19A-26.
2. On June 4, 2021, AWS received a complaint alleging failure of the shelter to provide veterinary care to an injured dog named Ford that was impounded by the shelter on March 3, 2021. Based on the information in the complaint, AWS opened an investigation.
3. AWS reviewed the relevant shelter records concerning the dog named Ford. The records show the following:
  - (a) Ford was noted to have an injured leg by the impounding Animal Control Officer. Therefore, the dog was taken directly to the veterinary clinic for evaluation and treatment on March 3, 2021;
  - (b) Ford was examined and treated by the veterinary clinic. The dog was diagnosed as having a fracture of the medial humeral condyle. The dog was hospitalized at the clinic until March 11, 2021.
  - (c) On March 11, 2021, Ford was discharged from the veterinary clinic to the shelter. Upon discharge of Ford, the veterinarian prescribed administration of a non-steroidal anti-inflammatory medication for pain relief and advised the shelter to seek a referral to an orthopedic specialist for repair of the fracture and/or to consider amputation as another option;
  - (d) The shelter's medication log shows that Ford was administered the veterinary-prescribed analgesic daily from March 11 – 26, 2021;
  - (c) Ford was returned to the veterinary clinic on May 5, 2021 for a recheck, follow-up radiographs of the fractured leg and sterilization surgery (spay);
  - (d) Ford was transferred via an intermediary transporter as a medical rescue to an out-of-state animal welfare organization on May 22, 2021;
4. According to information from the complainant, the out-of-state rescue's veterinarian amputated Ford's fractured leg on June 4, 2021.
5. On June 4, 2021, the AWS Inspector interviewed the veterinarian that initially examined Ford on March 3, 2021 for the shelter. This attending veterinarian provided a written statement to AWS on June 9, 2021. A follow-up interview was conducted by the AWS Director on June 15, 2021. In

addition, the veterinary medical records were reviewed as part of this investigation. The information from the veterinarian and the veterinary medical records are consistent in regard to the initial veterinary recommendation for treatment of Ford. The veterinary recommendation was for a timely referral to an orthopedic specialist for evaluation and consideration of amputation as an option.

6. The shelter failed to seek a timely veterinary referral to a specialist for Ford or seek veterinary care for an amputation of the injured leg in accordance with the veterinary recommendations. Although the non-steroidal anti-inflammatory medication was administered for 15 days, Ford was not taken for veterinary treatment of the fractured leg or follow-up veterinary care for 8 weeks.
7. During the site visit portion of the investigation on June 8, 2021, the AWS Inspector discussed the concerns contained in the complaint with the shelter's Rescue Coordinator/Assistant Manager and conducted an interview concerning this matter. At the conclusion of this interview, the AWS Inspector requested a statement from the Rescue Coordinator/Assistant Manager. AWS received the written statement on June 8, 2021. After reviewing this statement, the AWS Inspector contacted the Rescue Coordinator/Assistant Manager on June 11, 2021 and requested additional information. A follow-up statement was provided by the Rescue Coordinator/Assistant Manager on June 11, 2021.
8. On June 16, 2021, the AWS Inspector conducted an interview with the Shelter Director concerning the complaint and its allegations. Upon conclusion of this interview, the Inspector requested a written statement. AWS received the written statement on June 16, 2021.

## **CONCLUSIONS**

As a result of this investigation, AWS concludes that the shelter, either by act or omission, violated the following provisions:

02 NCAC 52J .0210(c) for failing to provide veterinary care to the dog named Ford from March 11, 2021 until May 22, 2021;

## **CIVIL PENALTY**

As required by N.C. General Statute § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Lenoir County SPCA as owner and operator of Lenoir County Animal Shelter is hereby assessed a civil penalty for the following violation:

\$1000.00 for violation of 02 NCAC 52J .0210(c) for failing to provide veterinary care to the dog named Ford from March 11, 2021 until May 22, 2021.

**\$1,000.00 TOTAL AMOUNT ASSESSED**

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's registration pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

(See Appendix for text of referenced General Statutes and Administrative Code)

July 9, 2021  
Date

Patricia Norris, DVM, MS  
Patricia Norris, DVM, MS  
Director, Animal Welfare Section  
North Carolina Department of  
Agriculture & Consumer Services

## Appendix

### REFERENCED LAWS AND REGULATIONS

#### **§ 19A-26. Certificate of registration required for animal shelter.**

No person shall operate an animal shelter unless a certificate of registration for such animal shelter shall have been granted by the Director. Application for such certificate shall be made in the manner provided by the Director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided. (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)

#### **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the

violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

**§ 19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

**02 NCAC 52J .0210 VETERINARY CARE**

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. March 23, 2009; January 1, 2005.*